

Article - Environment

[\[Previous\]](#)[\[Next\]](#)

§5–905.

(a) The following agricultural and forestry activities are exempt from the approval and mitigation requirements of this section:

(1) Agricultural activities undertaken in accordance with public drainage regulations;

(2) Agricultural and forestry activities, including the repair and maintenance of farm ponds, drainage ditches, channels, subsurface drains, causeways, bridges, or water control structures, provided that they do not drain, dredge, fill, or convert nontidal wetlands on which agricultural and forestry activities are not presently conducted;

(3) Agricultural and forestry activities on areas that have laid fallow as part of a conventional rotational cycle or due to a civil action involving ownership of the property;

(4) Agricultural and forestry activities on areas that had been set aside or taken out of production under a formal State or federal program;

(5) Forestry activities not requiring an erosion and sediment control plan;

(6) Construction or maintenance of forest roads and skid trails in accordance with best management practices; and

(7) Other activities exempted by the Department by regulation to maintain consistency with federal law.

(b) (1) After December 31, 1990 agricultural activities conducted in nontidal wetlands that are not exempted under subsection (a) of this section require the soil conservation district to approve a soil conservation and water quality plan that contains best management practices to protect nontidal wetlands in compliance with regulations adopted by the Department in consultation with the Department of Agriculture.

(2) After December 31, 1990 forestry activities required to have an erosion and sediment control plan that are not exempted under subsection (a) of this

section shall incorporate nontidal wetlands best management practices in compliance with regulations under this subtitle.

(c) After December 31, 1990 if an agricultural activity that is not exempted under subsection (a) of this section results in a loss of nontidal wetlands, the Department shall require that a soil conservation and water quality plan include mitigation for the loss within 3 years. Mitigation may include creation or restoration of nontidal wetlands or monetary compensation. In determining the extent of mitigation, the Department shall consider the benefits provided by best management practices. If the State Department of Agriculture determines in writing that mitigation will create an economic hardship that would jeopardize the continued operation of the farm, mitigation may be deferred until:

- (1) The economic hardship no longer exists;
- (2) The current owner or operator transfers the farm to a new owner or operator, however, the current owner or operator is responsible for mitigation; or
- (3) Agricultural activities no longer take place on the nontidal wetland.

(d) The soil conservation district shall be responsible for delineating the extent of nontidal wetlands affected by agricultural or forestry activities.

[\[Previous\]](#)[\[Next\]](#)